

Amend CSSB 207 (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 41.0105(b), Civil Practice and Remedies Code (page 1, line 33), between the underlined comma and "a health", insert "or on the claimant's behalf, including amounts paid by".

(2) In SECTION 1 of the bill, in added Section 41.0105(b), Civil Practice and Remedies Code (page 1, line 35), strike "or Medicare" and substitute "Medicare, or another insurer or governmental payor".

(3) In SECTION 1 of the bill, in added Section 41.0105(b), Civil Practice and Remedies Code (page 1, line 36), between "care" and "provider", insert "facility or".

(4) In SECTION 1 of the bill, in added Section 41.0105(c), Civil Practice and Remedies Code (page 1, line 41), strike "fair and".

(5) In SECTION 1 of the bill, in added Section 41.0105(d), Civil Practice and Remedies Code (page 1, line 44), between "action" and the underlined comma, insert "in which a claimant seeks recovery of medical or health care expenses".

(6) In SECTION 1 of the bill, in added Section 41.0105(d), Civil Practice and Remedies Code (page 1, line 45), between "care" and "provider", insert "facility or".

(7) In SECTION 1 of the bill, in added Section 41.0105(d), Civil Practice and Remedies Code (page 1, line 47), strike "by a" and substitute "from a".

(8) In SECTION 1 of the bill, in added Section 41.0105(e), Civil Practice and Remedies Code (page 1, lines 51-52), strike "the medical or health care provider who provided the services" and substitute "a medical or health care facility or provider".

(9) In SECTION 2 of the bill, in the recital for amended Section 18.001, Civil Practice and Remedies Code (page 1, line 57), strike "(c),".

(10) In SECTION 2 of the bill, in the recital for amended Section 18.001, Civil Practice and Remedies Code (page 1, line 58), strike "Subsection (b-1)" and substitute "Subsections (b-1) and (b-2)".

(11) In SECTION 2 of the bill, strike amended Sections

18.001(b) and (c), Civil Practice and Remedies Code, and added Section 18.001(b-1), Civil Practice and Remedies Code (page 1, line 59 through page 2, line 26), and substitute the following:

(b) Unless notice of intent to controvert the reasonableness of the amounts charged or the necessity for medical or health care services [~~a controverting affidavit~~] is served as provided by this section, an affidavit complying with this section and stating that the amount a person charged for a service was reasonable at the time and place that the service was provided and that the service was necessary is sufficient evidence to support a finding of fact by judge or jury that the amount charged was reasonable or that the service was necessary.

(b-1) Except as provided by Section 18.0011, an affidavit served under Subsection (b) has no effect except to prove the authenticity of the medical or health care records described by the affidavit if notice of intent to controvert the reasonableness of the amounts charged or necessity for medical or health care services is served as provided by this section.

(b-2) An [The] affidavit served under Subsection (b) is not evidence of and does not support a finding of the causation element of the cause of action that is the basis for the civil action.

(12) In SECTION 2 of the bill, in amended Section 18.001(e), Civil Practice and Remedies Code (page 2, line 28), between "medical" and "services", insert "or health care".

(13) In SECTION 2 of the bill, in amended Section 18.001(e-1), Civil Practice and Remedies Code (page 2, line 43), between "medical" and "services", insert "or health care".

(14) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 18, Civil Practice and Remedies Code, is amended by adding Section 18.0011 to read as follows:

Sec. 18.0011. AFFIDAVIT OF HEALTH CARE FACILITY OR PROVIDER. (a) A party may not controvert the reasonableness of the charges for medical or health care services stated in an affidavit served under Section 18.001 by or on behalf of a health care facility or provider if the affidavit states one of the following

amounts as reasonable charges for the necessary medical or health care services provided by the facility or provider to the person whose injury or death is the subject of the civil action:

(1) amounts actually received by the facility or provider from or on behalf of the claimant, including amounts received from a health benefit plan, workers' compensation insurance, an employer-provided plan, Medicaid, Medicare, or another insurer or governmental payor, for each medical or health care service provided by the facility or provider; or

(2) amounts that, on the date the service was provided, do not exceed 150 percent of the maximum allowable reimbursement for each medical or health care service provided as determined by the commissioner of workers' compensation in accordance with Section 413.011, Labor Code.

(b) If an affidavit served by a health care facility or provider under Section 18.001 complies with Subsection (a) and includes a statement that the facility or provider does not intend to appear at trial to testify regarding the reasonableness of the facility's or provider's charges or the necessity for the facility's or provider's services, then:

(1) a party may not seek to obtain through any pretrial discovery procedure information from the facility or provider about the reasonableness of the facility's or provider's charges or the necessity for the facility's or provider's services; and

(2) the trial court shall exclude trial testimony by the facility or provider regarding the reasonableness of the facility's or provider's charges or the necessity for the facility's or provider's services unless:

(A) the court finds there is good cause to allow the testimony;

(B) the testimony will not unfairly surprise or unfairly prejudice any party to the civil action; and

(C) a party opposing admission of the testimony into evidence is given a reasonable opportunity to develop and present evidence relevant to the testimony to be offered by the facility or provider.

(c) An affidavit served by a health care facility or

provider under Subsection (a) and the statements made in the affidavit may be used only in the civil action in which the affidavit is served and not in other actions or for other purposes.

(15) In SECTION 4 of the bill, in the transition language (page 2, line 69 through page 3, line 1), strike "Sections 18.001 and 41.0105, Civil Practice and Remedies Code, as amended by this Act," and substitute "The changes in law made by this Act".